

REMARKS:

REGARDING APPLICANTS' INFORMATION DISCLOSURE STATEMENT:

The only references to patents in the specification are in the "Background," and are documents that are exemplary of the state of the art over which the claims are patentable.

REGARDING THE CLAIMS:

Claim 1 has been amended to overcome rejection under 35 U.S.C. §102.

Claim 6 has been cancelled and claim 2 has been amended to include the limitations of previously presented claim 1 (i.e. previous to the current amendment) and claim 6 to provide an allowable claim corresponding to the writing of claim 6 in independent form. As amended, claim 2 contains subject matter indicated by the Examiner to be allowable. Dependent claims 3 – 5, 7, 9 and 19 have been amended to depend from claim 2. Having dependency from claim 2, claims 3 - 5, 7, 9 and 19 are believed to be allowable. Since claim 8 depends from claim 7, claims 10 and 11 depend from claim 9 and claim 12 depends from claim 4 these claims should also be in condition for allowance.

Amendment of claim 2 as indicated places claims 3 - 5, 7 - 12 and 19 in condition for allowance.

Claims 1 - 5, 7 - 12 and 19 are pending in the present application.

IN RESPONSE TO THE OFFICE ACTION:

REJECTION UNDER 35 U.S.C. § 102(a):

Careful study of the Office Action reveals that the statements of rejection are identical to those included in the Office Action of September 19, 2006. All issues of the previous Office Action were addressed in the response filed on April 2, 2007, which response is incorporated herein by reference. Applicants believe that evidence previously provided is still relevant to show that Rauch is deficient as an anticipating reference under 35 U.S.C. §102.

However, because the present Office Action is a final action, applicant's response is restricted to either cancellation of claims or amendment of claims to place the application in condition for allowance. Suitable amendment, based on allowable subject matter identified by the Examiner, places claims 2, 3 - 5, 7 - 12 and 19 in condition for allowance.

Claim 1 has also been amended for allowance by including a limitation not taught by Rauch. Specifically, amendment of claim 1 now introduces recitation of, "... where said idling speed (80) has a rotational value applying to both said first and said second operating mode (56, 57)." Figure 6 and paragraphs [0006] and [0047] provide support for the limitation added to claim 1 to show that the same idling speed applies for both the first operating mode and the second operating mode according to the present invention. The teachings of Rauch require that each operation mode has its own unique idling speed (See e.g. Rauch at column 5, lines 42 – 52).

The response to the previous Office Action (09/19/2006) included on page 10 the statement, "Selection of A3 from FIG. 6 and A1 from FIG. 4 to represent the first and second lower limits recited in claim 1 of the present invention appears to reflect the use of knowledge of the present application for selecting, from the reference, variables that could appear relevant to applicants' disclosure." (emphasis added). The possibility that the present application may have influenced the rejection of claims also seems to be present in the current Office Action as follows:

Applicants acknowledge, with appreciation, clarification of the source and purpose of the equation $V_{sp} = IS \times GR$ that was included in the Office Action in the "Response to Arguments" section, but is absent from Rauch. In the cited section the Examiner states, "Since V_{sp} is equal to

input shaft speed (designated IS) multiplied by the current gear ratio (designated GR), then Rauch does teach of the transmission control as a function of the input shaft speed.” This explanation in essence admits that Rauch does not specifically teach “input shaft speed,” but with knowledge from the present application, derivation of the required property is achievable based upon vehicle speed (Vsp) and gear ratio (GR). The same knowledge was apparently used in disposal of claim 9. Applicants submit that vehicle speed (Vsp) is further dependent upon the rotational value of the speed at which a change in gear ratio (GR) occurs. In other words there is no direct translation of input shaft speed (IS) to vehicle speed.

Applicants would also appreciate clarification of the Examiner’s conclusion that 700 rpm, being lower than 1200 rpm, satisfies the modes of the present invention. A request was previously made for a reasoned explanation of how such a conclusion could be drawn without knowledge of the present invention.

For the reasons presented above, applicants submit that there is evidence of the impermissible application of knowledge of the present invention for rejection of its claims. This appears to be the case by implication that vehicle speed (Vsp) substitutes for recitation of input shaft speed (IS), as reasoned above.

ALLOWABLE SUBJECT MATTER

Applicants appreciate the Examiner’s notification that Claims 6 – 8 and 11 represent allowable subject matter, overcoming objection if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, applicants have amended claim 2 to provide an allowable independent claim that includes the limitations of previously presented claim 1 and claim 6, as discussed previously. Claims 3 – 5, 7 – 12 and 19 have dependency from claim 2 and are also believed to be allowable.

Accordingly, request is made for reconsideration of and notification of allowance of claims 1 - 5, 7 - 12 and 19.

As indicated previously, applicants have fully addressed the rejection of claims over Rauch and decline further comment.

The main objective of this response is to obtain claims to allowable subject matter. Having amended claim 1 and addressed allowable subject matter by amending claim 2 in

compliance with the Examiner's suggestion, applicants request reconsideration and notification of allowance of claims 1 - 5, 7 - 12 and 19 in the next paper from the Office.

The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437, referencing Attorney Docket No.: 0173.0054.PCUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner may directly contact the undersigned by phone to further the discussion.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tracy Druce", written in a cursive style.

Tracy W. Druce, Esq.
Reg. No. 35,493